



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,430	12/20/2001	Kazunori Okano	NITT.0050	4376

7590 02/27/2004
Stanley P Fisher
Reed Smith Hazel & Thomas
3110 Fairview Park Drive Suite 1400
Falls Church, VA 22042-4503

EXAMINER

DRODGE, JOSEPH W

ART UNIT	PAPER NUMBER
----------	--------------

1723

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/018,430	Applicant(s) OKANO ET AL.	
	Examiner Joseph W. Drodge	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-20, 22-30 and 47-52 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-46 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-20, 22-30 and 47-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5-20,22-30 and 47-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Kopczynski patent 3,344,984.

Kopczynski discloses a centrifugal machine comprising shaft 6 or 24, rotor/rotating body 3 or 18 or 81 (see column 2, lines 16-25 and column 15, lines 51-64), having single sample separating chamber utilized for sample processing (column 2, lines 25-28, etc.), the chamber having an upper opening 10/11 or 19/39. Also disclosed is a member that selectively engages the upper opening (removable cover 21/22). The disclosed chamber is symmetrical and centered on the shaft, thus sharing the axis of the rotor/rotating body. The chamber has dimensions of unequal length by virtue of forming a peripheral wall forming "*an approximately semi-circular track*" (column 2, lines 60-65). Also disclosed are rotating driving means associated with shafts 6 and 24.

Regarding claims 2 and 9, see teaching of sealing (column 3, lines 51-54).

Regarding claims 3,10,49,50 and 51, no structure corresponding to "injecting of sample" is claimed.

Regarding claims 5,17,22 and 28, see teaching of varied centrifugal acceleration in column 3, lines 18-25.

Regarding claims 6,13,15,25 and 52, see lower openings 42-46 in figure 3.

Art Unit: 1723

Regarding claims 7,14,16,18,24,26 and 30, means to fit upper part 1 to lower part 3 are shown in figure 2, lines 39-44.

Regarding claims 11 and 17, figure 11 illustrates concave portions 98 and 99 leading to openings 102 and 104.

Regarding claims 9 17,25,27,and 49-52, solution holding vessel 94/98/99 have concave wall portions.

Regarding claim 23, see supporting stand 75 (embodiment of figure 11).

Regarding claim 29, means 76 rotates the supporting stand (column 5, lines 48-50).

Art Unit: 1723

Allowable Subject Matter:

Claims 31-36 and 37-46 are all deemed to distinguish (over patent 3,211,368) in view of respective recitations of "plural rotors ...symmetric rotation axis....single chamber...symmetric axis being included inside said sample separation chamber".

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Applicant's arguments with respect to claims 1-3,5-20,22-30 and 74-52 have been considered but are moot in view of the new ground(s) of rejection.

The above claims are narrower-in-part and broader-in-part (the former limitation concerning members of frameworks coupled to rotor or chamber upper opening) having been deleted from the claims, thus necessitating new grounds of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kopczynski patent 3,026,719 is related to '984.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/018,430

Page 6

Art Unit: 1723

JWD

February 23, 2004

JOSEPH DRODGE
PRIMARY EXAMINER

Joseph D. Dudge
JOSEPH DRODGE
PRIMARY EXAMINER